

Senate Study Bill 1074 - Introduced

SENATE/HOUSE FILE _____

BY (PROPOSED BOARD OF PHARMACY
BILL)

A BILL FOR

1 An Act relating to pharmacy regulation, including alternate
2 board of pharmacy members, drug disposal program funding, an
3 impaired professionals program, and pharmacy internet sites.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 155A.2A Board of pharmacy —
2 **alternate members.**

3 1. Notwithstanding sections 17A.11, 69.16, 69.16A, 147.12,
4 147.14, and 147.19, the board may have a pool of up to seven
5 alternate members, including members licensed to practice under
6 this chapter and members not licensed to practice under this
7 chapter, to substitute for board members who are disqualified
8 or become unavailable for any reason for contested case
9 hearings.

10 *a.* The board may recommend, subject to approval by the
11 governor, up to seven people to serve in a pool of alternate
12 members.

13 *b.* A person serves in the pool of alternate members at
14 the discretion of the board; however, the length of time an
15 alternate member may serve in the pool shall not exceed nine
16 years. A person who serves as an alternate member may later be
17 appointed to the board and may serve nine years, in accordance
18 with sections 147.12 and 147.19. A former board member may
19 serve in the pool of alternate members.

20 *c.* An alternate member licensed under this chapter shall
21 hold an active license and shall have been actively engaged in
22 the practice of pharmacy in the preceding three years, with the
23 two most recent years of practice being in Iowa.

24 *d.* When a sufficient number of board members are unavailable
25 to hear a contested case, the board may request alternate
26 members to serve.

27 *e.* Notwithstanding section 17A.11, section 147.14,
28 subsection 2, and section 272C.6, subsection 5:

29 (1) An alternate member is deemed a member of the board only
30 for the hearing panel for which the alternate member serves.

31 (2) A hearing panel containing alternate members must
32 include at least five people.

33 (3) The majority of a hearing panel containing alternate
34 members shall be members of the board.

35 (4) The majority of a hearing panel containing alternate

1 members shall be licensed to practice under this chapter.

2 (5) A decision of a hearing panel containing alternate
3 members is considered a final decision of the board.

4 f. An alternate member shall not receive compensation in
5 excess of that authorized by law for a board member.

6 Sec. 2. Section 155A.3, subsection 36, Code 2017, is amended
7 to read as follows:

8 36. "Practitioner" means a physician, dentist, podiatric
9 physician, prescribing psychologist, veterinarian, optometrist,
10 physician assistant, advanced registered nurse practitioner, or
11 other person licensed or registered to prescribe, distribute,
12 or dispense a prescription drug or device in the course of
13 professional practice in this state or a person licensed by
14 another state in a health field in which, under Iowa law,
15 licensees in this state may legally prescribe drugs.

16 Sec. 3. Section 155A.39, Code 2017, is amended to read as
17 follows:

18 155A.39 ~~Programs~~ Program to aid monitor impaired pharmacists,
19 pharmacist-interns, or pharmacy technicians — reporting,
20 confidentiality, immunity, and funding.

21 1. ~~A person or pharmaceutical peer review committee may~~
22 ~~report relevant facts to the board relating to the acts of~~
23 ~~a pharmacist in this state, a pharmacist-intern as defined~~
24 ~~in [section 155A.3, subsection 31](#), or a pharmacy technician~~
25 ~~in this state if the person or peer review committee has~~
26 ~~knowledge relating to the pharmacist, pharmacist-intern, or~~
27 ~~pharmacy technician which, in the opinion of the person or~~
28 ~~pharmaceutical peer review committee, might impair competency~~
29 ~~due to chemical abuse, chemical dependence, or mental or~~
30 ~~physical illness, or which might endanger the public health~~
31 ~~and safety, or which provide grounds for disciplinary action~~
32 ~~as specified in [this chapter](#) and in the rules of the board.~~

33 The board may establish a review committee and may implement a
34 program to monitor impaired pharmacists, pharmacist-interns,
35 and pharmacy technicians pursuant to section 272C.3, subsection

1 1, paragraph "k".

2 ~~2.—A committee of a professional pharmaceutical~~
3 ~~organization, its staff, or a district or local intervenor~~
4 ~~participating in a program established to aid pharmacists,~~
5 ~~pharmacist-interns, or pharmacy technicians impaired by~~
6 ~~chemical abuse, chemical dependence, or mental or physical~~
7 ~~illness may report in writing to the board the name of the~~
8 ~~impaired pharmacist, pharmacist-intern, or pharmacy technician~~
9 ~~together with pertinent information relating to the impairment.~~
10 ~~The board may report to a committee of a professional~~
11 ~~pharmaceutical organization or the organization's designated~~
12 ~~staff information which the board receives with regard to a~~
13 ~~pharmacist, pharmacist-intern, or pharmacy technician who may~~
14 ~~be impaired by chemical abuse, chemical dependence, or mental~~
15 ~~or physical illness.~~

16 ~~3.—Upon determination by the board that a report submitted~~
17 ~~by a peer review committee or a professional pharmaceutical~~
18 ~~organization committee is without merit, the report shall~~
19 ~~be expunged from the pharmacist's, pharmacist-intern's, or~~
20 ~~pharmacy technician's individual record in the board's office.~~
21 ~~A pharmacist, pharmacist-intern, pharmacy technician, or an~~
22 ~~authorized representative of the pharmacist, pharmacist-intern,~~
23 ~~or pharmacy technician shall be entitled on request to examine~~
24 ~~the peer review committee report or the pharmaceutical~~
25 ~~organization committee report submitted to the board and to~~
26 ~~place into the record a statement of reasonable length of the~~
27 ~~pharmacist's, pharmacist-intern's, or pharmacy technician's~~
28 ~~view with respect to any information existing in the report.~~

29 ~~4.—Notwithstanding other provisions of the Code, the~~
30 ~~records and proceedings of the board, its authorized agents,~~
31 ~~a peer review committee, or a pharmaceutical organization~~
32 ~~committee as set out in subsections 1 and 2 shall be privileged~~
33 ~~and confidential and shall not be considered public records or~~
34 ~~open records unless the affected pharmacist, pharmacist-intern,~~
35 ~~or pharmacy technician so requests and shall not be subject~~

1 ~~to a subpoena or to a discovery proceeding. The board may~~
2 ~~disclose the records and proceedings only as follows:~~

3 ~~a. In a criminal proceeding.~~

4 ~~b. In a disciplinary hearing before the board or in a~~
5 ~~subsequent trial or appeal of a board action or order.~~

6 ~~c. To the pharmacist licensing or disciplinary authorities~~
7 ~~of other jurisdictions.~~

8 ~~d. To the pharmacy technician registering, licensing, or~~
9 ~~disciplinary authorities of other jurisdictions.~~

10 ~~e. Pursuant to an order of a court of competent~~
11 ~~jurisdiction.~~

12 ~~f. Pursuant to [subsection 11](#).~~

13 ~~g. As otherwise provided by law.~~

14 ~~5. 2.~~ An employee or a member of the board, a peer
15 review committee member, ~~a professional pharmaceutical~~
16 ~~organization committee member, a professional pharmaceutical~~
17 ~~organization district or local intervenor, or any other person~~
18 who furnishes information, data, reports, or records in good
19 faith for the purpose of aiding the an impaired pharmacist,
20 pharmacist-intern, or pharmacy technician, shall be immune from
21 civil liability. This immunity from civil liability shall be
22 liberally construed to accomplish the purpose of [this section](#)
23 and is in addition to other immunity provided by law.

24 ~~6. 3.~~ An employee or member of the board or a review
25 ~~committee or intervenor program member~~ is presumed to have
26 acted in good faith. A person alleging a lack of good faith has
27 the burden of proof on that issue.

28 ~~7. The board may contract with professional pharmaceutical~~
29 ~~associations or societies to provide a program for pharmacists,~~
30 ~~pharmacist-interns, and pharmacy technicians who are impaired~~
31 ~~by chemical abuse, chemical dependence, or mental or physical~~
32 ~~illness. Such programs shall include, but not be limited to,~~
33 ~~education, intervention, and posttreatment monitoring. A~~
34 ~~contract with a professional pharmaceutical association or~~
35 ~~society shall include the following requirements:~~

1 ~~a. Periodic reports to the board regarding education,~~
2 ~~intervention, and treatment activities.~~

3 ~~b. Immediate notification to the board's executive secretary~~
4 ~~or director or the executive secretary's or director's designee~~
5 ~~of the identity of the pharmacist, pharmacist-intern, or~~
6 ~~pharmacy technician who is participating in a program to~~
7 ~~aid impaired pharmacists, pharmacist-interns, or pharmacy~~
8 ~~technicians.~~

9 ~~c. Release to the board's executive secretary or director or~~
10 ~~the executive secretary's or director's designee upon written~~
11 ~~request of all treatment records of a participant.~~

12 ~~d. Quarterly reports to the board, by case number, regarding~~
13 ~~each participant's diagnosis, prognosis, and recommendations~~
14 ~~for continuing care, treatment, and supervision which maintain~~
15 ~~the anonymity of the participant.~~

16 ~~e. Immediate reporting to the board of the name of~~
17 ~~an impaired pharmacist, pharmacist-intern, or pharmacy~~
18 ~~technician who the treatment organization believes to be an~~
19 ~~imminent danger to either the public or to the pharmacist,~~
20 ~~pharmacist-intern, or pharmacy technician.~~

21 ~~f. Reporting to the board, as soon as possible, the name~~
22 ~~of a participant who refuses to cooperate with the program,~~
23 ~~who refuses to submit to treatment, or whose impairment is not~~
24 ~~substantially alleviated through intervention and treatment.~~

25 ~~g. Immediate reporting to the board of the name of a~~
26 ~~participant where additional information is evident that known~~
27 ~~distribution of controlled substances or legend drugs to other~~
28 ~~individuals has taken place.~~

29 ~~8. 4.~~ The board may add a surcharge of not more than ten
30 percent of the applicable fee to a pharmacist license fee,
31 pharmacist license renewal fee, pharmacist-intern registration
32 fee, pharmacy technician registration fee, or pharmacy
33 technician registration renewal fee authorized under this
34 chapter to fund ~~programs~~ a program to aid monitor impaired
35 pharmacists, pharmacist-interns, or pharmacy technicians.

1 ~~9.~~ 5. The board may accept, transfer, and expend funds
2 made available by the federal or state government or by another
3 public or private source to be used in ~~programs~~ a program
4 authorized by this section. ~~The board may contract to provide~~
5 ~~funding on an annual basis to a professional pharmaceutical~~
6 ~~association or society for expenses incurred in management~~
7 ~~and operation of a program to aid impaired pharmacists,~~
8 ~~pharmacist interns, or pharmacy technicians. Documentation of~~
9 ~~the use of these funds shall be provided to the board not less~~
10 ~~than annually for review and comment.~~

11 ~~10.~~ 6. Funds and surcharges collected under this section
12 shall be deposited in an account and may be used by the
13 board to administer ~~programs~~ a program authorized by this
14 section, ~~including the provision of education, intervention,~~
15 ~~and posttreatment monitoring to an impaired pharmacist,~~
16 ~~pharmacist-intern, or pharmacy technician and to pay the~~
17 ~~administrative costs incurred by the board in connection with~~
18 ~~that funding and appropriate oversight, but shall not be used~~
19 for costs incurred for a participant's initial evaluation,
20 referral services, treatment, or rehabilitation subsequent to
21 intervention.

22 ~~11.~~ 7. The board may disclose that the license of a
23 pharmacist, the registration of a pharmacist-intern, or the
24 registration of a pharmacy technician who is the subject of an
25 order of the board that is confidential pursuant to ~~subsection~~
26 4 section 272C.6 is suspended, revoked, canceled, restricted,
27 or retired; or that the pharmacist, pharmacist-intern, or
28 pharmacy technician is in any manner otherwise limited in the
29 practice of pharmacy; or other relevant information pertaining
30 to the pharmacist, pharmacist-intern, or pharmacy technician
31 which the board deems appropriate.

32 ~~12.~~ 8. The board may adopt rules necessary for the
33 implementation of this section.

34 Sec. 4. Section 155A.43, Code 2017, is amended to read as
35 follows:

1 155A.43 Pharmaceutical collection and disposal program —
2 annual allocation.

3 Of the fees collected by the board pursuant to sections
4 124.301 and 147.80 and this chapter 155A by the board of
5 pharmacy, and retained by the board pursuant to section 147.82,
6 ~~not more than one hundred seventy-five thousand dollars may~~
7 ~~be allocated~~ the board may annually allocate a sum deemed by
8 the board to be adequate for administering the pharmaceutical
9 collection and disposal program ~~originally established~~
10 ~~pursuant to 2009 Iowa Acts, ch. 175, §9.~~ The program shall
11 provide for the management and disposal of unused, excess,
12 and expired pharmaceuticals, including the management and
13 disposal of controlled substances pursuant to state and federal
14 regulations. The board of ~~pharmacy~~ may cooperate contract
15 ~~with the Iowa pharmacy association and may consult with the~~
16 ~~department and sanitary landfill operators in administering one~~
17 or more vendors for the provision of supplies and services to
18 manage and maintain the program and to safely and appropriately
19 dispose of pharmaceuticals collected through the program.

20 Sec. 5. REPEAL. Section 155A.13B, Code 2017, is repealed.

EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill permits the board of pharmacy ("board") to
25 recommend, subject to approval by the governor, a pool of up to
26 seven qualified individuals to serve as alternate board members
27 to ensure the availability of a quorum of board members to
28 hear a contested case. The bill identifies the maximum term
29 for an alternate board member, provides that an individual
30 who previously served on the board may serve as an alternate
31 board member, provides for compensation when the alternate
32 member serves on a hearing panel, establishes requirements
33 for the composition of a hearing panel containing alternate
34 board members, and provides that the decision of a hearing
35 panel containing alternate board members is considered a final

1 decision of the board.

2 The bill amends the definition of "practitioner" to
3 identify the licensed health care practitioners that are
4 authorized under Iowa law to prescribe, distribute, or dispense
5 prescription drugs and devices to patients in the course of
6 professional practice in this state.

7 The bill amends provisions regarding the program to
8 aid impaired pharmacists, pharmacist-interns, or pharmacy
9 technicians by eliminating specific provisions relating to
10 reporting and establishment of the program and directing
11 that the program be implemented pursuant to Code section
12 272C.3(1)(k), relating generally to the authority of licensing
13 boards to establish licensee review committees. The bill
14 identifies the limited information that may be disclosed
15 regarding the license or registration of any individual subject
16 to monitoring under the program and authorizes the board to
17 adopt rules to implement the Code section.

18 The bill amends provisions relating to the pharmaceutical
19 collection and disposal program to authorize the board to
20 allocate a sum from fees retained by the board to support
21 board activities that the board has determined to be adequate
22 for administering the pharmaceutical collection and disposal
23 program. The bill authorizes the board to contract with one or
24 more vendors to manage and maintain the program in compliance
25 with federal and state regulations.

26 The bill repeals all provisions regarding the registration
27 and regulation of internet pharmacy sites and pharmacies
28 associated or aligned with internet pharmacy sites.